

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 27 and 28 have been rejected under 35 U.S.C. § 112, as being vague and indefinite; Claims 15-16, 18, 24-25 and 28 have been rejected under 35 U.S.C. § 102 as being anticipated by Cler and Claims 17, 19-23 and 26-27 have been rejected under 35 U.S.C. § 103 as being unpatentable over Cler in view of Brown.

Considering first then the Examiner's rejection of Claims 27 and 28 under 35 U.S.C. § 112, second paragraph, it is to be noted that Claim 27 has now been amended to as to include the combined limitations of Claims 15 and 17 so as to more clearly set forth the metes and bounds of the invention claimed therein. Accordingly, withdrawal of the rejection of Claims 27 and 28 under 35 U.S.C. § 112, second paragraph is believed to be in order and the same is hereby respectfully requested.

Next considering then the rejection of Claims 15-17, 18, 24-25 and 28 under 35 U.S.C. § 102 as being anticipated by Cler and the rejection of Claims 17, 19-23 and 26-27 under 35 U.S.C. § 103 as being unpatentable over Cler in view of Brown, it is to be noted that Claim 15 has now been amended so as to include the limitations of former Claim 17 which has now been canceled. In this regard, it is noted that the limitations of Claim 17 have not been rejected over the reference to Cler and instead the Examiner has relied upon the teachings of Brown as being obviously combinable with Cler to teach the limitations of Claim 17. In this regard, Applicants note that the object of Brown is to provide a system in which environmental measurements and the management of environmental parameters can be carried out by using a personal device, to which the corresponding data are transmitted (cf. column 2, lines 37-64). Specifically, it is stated that the data measured by the environmental measurement devices *can be stored* in the personal device (cf. column 7, lines 37-40). It is

further stated that it is possible that the *data can be analyzed* in the personal device (cf. column 7, lines 44-48). Such analysis is stated to be, for example, an overview of the received environmental data over time (cf. column 7, line 54). Furthermore, it is stated that such *data may be filtered* (cf. column 7, lines 57-63) and that the environmental indicators *can be logged* and an environmental indicator's storage 44 (cf. column 7, lines 66-67).

It is also noted that Brown is silent about any feedback in the sense that these logged data *might be used for the control* of multiple environmental control systems that control the particular environment in the sense of the disclosure of column 2, lines 58-64. Thus, in a first step, one notes that Brown is silent about a possibility that the control of the means of controlling the temperature could be carried out based on the input parameters taking into account the historic values as claimed in claim 17.

Furthermore, correspondingly Brown is also silent about any possibility to adapt the actual control of the means of controlling the temperature based on these historic data in an adaptation process. Thus, in a second step, one notes that Brown is silent about any adaptation or so to speak a learning process for the actual way how the control of the means of controlling the temperature is structured based on the historic data.

Since none of the documents on file disclose either a control as a function of historical data, or an adaptation of the control as a result of an analysis taking into account these historic data, it can only be concluded therefore that the subject matter of Claim 17, and correspondingly of newly submitted Claim 15, involves an inventive step. Not even with hindsight reconstruction is one lead to the subject matter of newly proposed claim 15 as there is simply no disclosure about any such use of historic data in the state of the art.

In view of the foregoing, it is respectfully submitted that Claim 15 as well as Claim 27 which now incorporates the language of Claim 15, as amended, patentably define over the above-noted references as well as the remaining references of record.

In view of the fact the limitations of all dependent claims have no corresponding teaching or disclosure in the prior art and based upon the dependency of such claims from Claim 15 as now amended, it is submitted that all dependent claims in the present application also merit indication of allowability, with the same being hereby respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Gregory J. Maier
Registration No. 25,599
James D. Hamilton
Registration No. 28,421
Attorneys of Record

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

I:\ATTY\JDH\266946US-AM.DOC